IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

Chapter VIII, Rule 32 (2) (b)
Description of case

Writ Petition No. 379 of 2007 (M/B)

Date of decision: 4th May, 2007

√A.F.R. (Approved for reporting)
~~Not Approved for Reporting~~

Date:

(Initial of Judge)

Note: Bench Reader will attach this at the top of the first page of the judgment when it is put up before the Judge for signature.

IN THE HIGH COURT OF UTTARAKHAND ATNAINITAL

Writ Petition No. 379 of 2007 (M/B)

1. Maharaj Chatendev Abdhoot Ji Ashram Association,
   Mahatma Gandhi Marg, Kankhal,
   Pargana Jwalapur, Tehsil & District Haridwar,
   Through its Trustee and Secretary
   Sri Bihari D. Chhabria.
2. Sri Bihari D. Chhabria S/o Late Daulatram Chhabria,
   having office at C/o Daulat International,
   167/1, A-Z Ind. Estate, G.K. Marg,
   Lower Parel, Mumbai-400 013,
   Maharashtra. …… Petitioners

Versus

1. State of Uttarakhand through Secretary,
   Department of Home Affairs,
   Dehradun, Uttarakhand.
2. District Magistrate, Haridwar,
   Uttarakhand.
3. SDM Haridwar,
   Uttarakhand.
4. Nagar Palika Parishad,
   Haridwar, Uttarakhand.
5. Mahant Mohan Dass,
   R/o Govind Dham Road No. 3,
   Khar, Mumbai, Maharashtra. …… Respondents

Mr. R.K. Raizada, Advocate for the petitioners.
Mr. Subhash Upadhyaya, Brief Holder for respondents Nos. 1 to 3.
Mr. Pankaj Miglani, Advocate for respondent No. 4.
Mr. Rajendra Dobhal, Advocate for respondent No. 5.

JUDGMENT

Coram: Hon'ble Rajeev Gupta, C.J.
Hon'ble J.C.S. Rawat, J.

RAJEEV GUPTA, C.J. (Oral)

Mr. R.K. Raizada, Advocate for the petitioners.

Mr. Subhash Upadhyaya, Brief Holder for respondents Nos. 1 to 3.

Mr. Pankaj Miglani, Advocate for respondent No. 4.

Mr. Rajendra Dobhal, Advocate for respondent No. 5.

They are heard.

2. Petitioners Maharaj Chatendev Abdhoot Ji Ashram Association and Sri Bihari D. Chhabria have filed this writ petition for the following relief:

> "(A) Issue an order, direction or writ in the nature of appropriate writ holding the entire proceedings before the Respondent No:4 in respect of mutation of the name of Respondent No:5 in place of name of Chetan Dev Kutia, having the import of conveying the impression of ownership of Respondent No:5 in any manner or for any purpose what-so-ever, as null and void and writ of certiorari quashing the entire proceedings before the Respondent No:4 in respect of mutation of the name of Respondent No:5 and/or
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> (B) Issue an order, direction or writ in the nature of writ of Mandamus commanding the Respondents No:4 and 2 to record the name of the Public Trust i.e. Maharaj Chetan Dev Avadhut Ji Ashram Association in the municipal records;
>
> (C) Issue an order, direction or writ in the nature of writ of Quo Warranto removing the Respondent No:5 from the office of Mahant of Chetan Dev Kutia and/or
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> (D) Issue an order, direction or writ in the nature of writ of Mandamus commanding the Respondents No: 1, 2 and 3 to ensure handing over the possession of the trust property by the Respondent No:5 to the Board of Trustees of the Association or the Mahant to be appointed by the Board of Trustees and/or
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> (E) Issue an order, direction commanding the Respondents No:5 to furnish the account to the Board of Trustees of Petitioner No:1 and/or
>
> (F) Issue an interim order or direction during the pendency of the writ petition, restraining the Respondent no:5 from dealing in any manner with the trust property i.e. Chetan Dev Kutia and commanding the Respondent No: 1, 2 and 3 to ensure handing over the possession of the trust property by the Respondent No:5, to the Board of Trustees of the petitioner no:01 or to some responsible person to be appointed as administrator of the trust property, under the supervision and administration of the Petitioner Association and/or
>
> (G) Issue an order or direction or writ as the Hon'ble Court deems fit and appropriate in the circumstances of the case."

3. From the writ petition, it is apparent that the writ petition has been filed under Section 7 of The Charitable and Religious Trusts Act,

1920 (hereinafter referred to as the 'Act') read with Article 226 and 227 of the Constitution of India. The matter relates to the management of the affairs of the Trust "Maharaj Chatendev Abdhoot Ji Ashram Association, Kankhal, District Haridwar".

4. Mr. Rajendra Dobhal, the learned counsel for respondent No. 5 has raised preliminary objection about the maintainability of the writ petition on the following grounds:

i) The petition under Section 7 of the Act is required to be filed before the court of District Judge and the petition before the High Court is not maintainable, as the High Court of Uttarakhand does not have ordinary original civil jurisdiction;
ii) The writ petition filed under Article 226/227 of the Constitution of India involves serious disputed questions of fact, which cannot be resolved in a writ petition;
iii) The prayer for issuance of a writ of quo-warranto is a misconceived one, as the office of Mahant of an Ashram is not a 'public office'; and
iv) For the other reliefs, such as furnishing of the account etc., the petitioners have alternative statutory remedy and can also file a civil suit for these reliefs.

5.1 The petitioners' case is that initially the property in question was purchased by Maharaj Chatendev Abdhoot Ji vide a registered sale deed in the year 1887. Maharaj Chatendev Abdhoot Ji, in his life time, executed a Will, wherein arrangement was made for the management of the property after his death. In the aforesaid Will, it was provided that the management of the property will be carried out by a Board of Trustees. After the death of Maharaj Chatendev Abdhoot Ji, the Trust property in question vested in the Board of Trustees as per the said Will. The Trustees took over the charge of the property and the Trust was registered with the Registrar of Societies. The Memorandum of Association of Society required the

Board of Trustees to appoint a Mahant to look after the day-to-day business of the Association. The Board of Trustees appointed Mahants of the Ashram from time to time. According to the petitioners, one Swami Brahm Hari was appointed Mahant of the Ashram. After sometime, he tendered his resignation to the Chairman of the Ashram, which was accepted with immediate effect. However, Swami Brahm Hari was requested to continue till the formal handing over of the charge to the representative of the Trust.

5.2 The petitioners' case further is that on 14.08.1996, respondent No. 5 Mahant Mohan Dass moved an application alongwith No Objection letter of Swami Brahm Hari and the Will executed by Swami Brahm Hari in favour of respondent No.5 to Nagar Palika, Haridwar seeking mutation of his name as owner / Mahant of the Ashram and his name was so recorded in the municipal records. As soon as the petitioners came to know about it, they preferred an appeal before Chief Judicial Magistrate, Haridwar under Section 160 of the Municipalities Act. Chief Judicial Magistrate, Haridwar dismissed the appeal and the dismissal of the appeal was challenged by the petitioners in Writ Petition No. 7064 (M/S) of 2001 before the High Court. In the said Writ Petition, the order of Chief Judicial Magistrate, Haridwar, dismissing the petitioners' appeal, was set aside and the matter was remanded back to the court of Chief Judicial Magistrate, Haridwar with a further direction to decide the appeal afresh in accordance with law. Chief Judicial Magistrate, Haridwar, in compliance of the above direction passed by the High Court, heard the appeal afresh and remanded the matter to the Executive Officer of respondent No.4 Nagar Palika, Haridwar for rehearing. The petitioners filed their objections before respondent No. 4 Nagar Palika, Haridwar and these proceedings are still pending before Nagar Palika, Haridwar.

6. Mr. Rajendra Dobhal, the learned counsel for respondent No. 5, referring to Section 7 of the Act, submitted that the jurisdiction to

entertain a petition under Section 7 of the Act is conferred on the court of District Judge and, as such, the present writ petition, so far as it is under Section 7 of the Act before the High Court, is not maintainable.

7. Mr. R.K. Raizada, the learned counsel for the petitioners, referring to the definition of the word 'the court' in Section 2 of the Act, on the other hand, contended that the jurisdiction to entertain a petition under Section 7 of the Act has been conferred on the court of District Judge as well as the High Court. The learned counsel, further, submitted that it is left to the option of the litigant to choose any forum between the two.

8. Section 7 of the Act, under which the petitioners claim to have filed this writ petition read with Article 226 and 227 of the Constitution of India, reads as follows:

> **"7. Powers of trustee to apply for directions.** – (1) Save as hereinafter provided in this Act, any trustee of an express or constructive trust created or existing for public purpose of a charitable or religious nature may apply by petition to the court within the local limits of whose jurisdiction any substantial part of the subject-matter of the trust is situate, for the opinion, advice of direction of the court on any question affecting the management or administration of the trust property, and the court shall give its opinion, advice or direction, as the case may be, thereon:
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> Provided that the court shall not be bound to give such opinion, advice or direction on any question which it considers to be a question not proper for summary disposal.
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> (2) The court on a petition under sub-section (1), may either give its opinion, advice or direction thereon forthwith, or fix a date for the hearing of the petition, and may direct a copy thereof, together with notice of the date so fixed, to be served on such of the persons interested in the trust, or to be published for information in such manner, as it thinks fit.
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> (3) On any date fixed under sub-section (2) or on any subsequent date to which the hearing may be adjourned, the Court, before giving any opinion, advice

> or direction, shall afford a reasonable opportunity of being heard to all persons appearing in connection with the petition.
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> (4) A trustee stating in good faith the facts of any matter relating to the trust in a petition under sub-section (1), and acting upon the opinion, advice or direction of the Court given thereon, shall be deemed, as far as his own responsibility is concerned, to have discharged his duty as such trustee in the matter in respect of which the petition was made."

9. A bare reading of the above-quoted Section 7 of the Act reveals that any trustee of a trust can file a petition under Section 7 to the court within the local limits of whose jurisdiction any substantial part of the subject-matter of the trust is situated, for the opinion, advice or direction of the court on any question affecting the management or administration of the trust property. The proviso to Sub-Section (1) of Section 7 provides that the court shall not be bound to give such opinion, advice or direction on any question which the court considers to be a question not proper for summary disposal.

10. In the present case, the entire controversy centers around the word 'the court' used in Section 7 of the Act. The word 'the court' is defined in Section 2 of the Act, which reads as follows:

> "**2. Interpretation. –** In this Act, unless there is anything repugnant in the subject or context. "the court" means the court of the district Judge [or any other court empowered in that behalf by the [State Government]] and includes the High Court in the exercise of its ordinary original civil jurisdiction."
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> (Emphasis supplied)

11. From the above-quoted definition of 'the court' in Section 2 of the Act, it becomes crystal clear that primarily it is the court of the District Judge, which has been conferred jurisdiction to entertain and decide the petition under Section 7 of the Act. However, in those cases, where the High Court has ordinary original civil jurisdiction, the petition under Section 7 of the Act can be filed before such High Court also.

12. Mr. R.K. Raizada, the learned counsel for the petitioners, referring to Chapter XV of the Allahabad High Court Rules, contended that the High Court of Allahabad, before the re-organisation of the States of Uttar Pradesh and Uttaranchal (now Uttarakhand), had the ordinary original civil jurisdiction to entertain and decide the petition under Section 7 of the Act and the High Court of Uttaranchal (now Uttarakhand), being the successor High Court of the Allahabad High Court, has also ordinary original civil jurisdiction.

13. The title of Chapter XV is "Original and Extraordinary Original Civil Jurisdiction". A bare look at the title of Chapter XV and the contents of Rule 22 make it clear that the High Court of Allahabad and now, after the re-organisation of the States, the High Court of Uttarakhand also has only extraordinary original civil jurisdiction and not ordinary original civil jurisdiction as required in the definition of the word 'the court' in Section 2 of the Act.

14. The High Court of Judicature at Allahabad was constituted by the Charter "Victoria By The Grace Of God, 1866". The Charter provides that:-

> "1. Now know Ye that We upon full consideration of the premises and of Our special grace certain knowledge and mere motion have thought fit to erect and establish and by these presents We do accordingly for Us Our heirs and successors erect and establish for the North Western Provinces of the Presidency of Fort William aforesaid (hereinafter referred to as the said territories) a High Court of Judicature which shall be called The High Court of Judicature at Allahabad. And we do hereby constitute the said Court to be a Court of Record."

15. The civil jurisdiction of the High Court has been defined in para 9 of the aforesaid Charter, which reads as under:-

> "9. And We do further ordain that the said High Court of Judicature at Allahabad shall have power to

> remove and to try and determine as the Court of extraordinary original jurisdiction any Suit being or falling within the jurisdiction of any Court subject to its superintendence when the said High court shall think proper to do so either on the agreement of the parties to that effect or for purposes of justice the reasons for so doing being recorded on the proceedings of the said High Court."

16. From the above-quoted paras 1 & 9 of the Charter, it becomes quite clear that the High Court of Judicature at Allahabad and, after the reorganization of the States, the successor High Court of Uttarakhand has extra-ordinary original civil jurisdiction but not ordinary original civil jurisdiction. Therefore, no original civil suit can be instituted before the High Court of Judicature at Allahabad and the High Court of Uttarakhand. Nevertheless, if the High Court, at the behest of the parties or suo motu, feel it necessary in the interest of justice, then the suit instituted before the court having ordinary original civil jurisdiction can be transferred before the High Court for trial in exercise of extra-ordinary original civil jurisdiction. Similarly, where some special enactment confers jurisdiction on the High Court to hear and decide the matter and no other forum is provided in the said enactment, the High Court will entertain and decide such matter. One such example can be of the trial of Election Petitions under the provisions of The Representation of the People Act, 1951. Under the provisions of Bengal, Agra & Assam Civil Courts Act, 1887, all petitions and suits are to be filed before the court having ordinary original civil jurisdiction and such suits / petitions cannot be directly entertained by the High Court.

17. From the above discussion, it is apparent that the petition filed by the petitioners under Section 7 of the Act is not maintainable before the High Court.

18. Mr. Rajendra Dobhal, the learned counsel for respondent No. 5 next submitted that the writ petition involves serious disputed questions of fact, which cannot be resolved in a writ petition. Mr.

Rajendra Dobhal, the learned counsel for respondent No. 5, in support of his above contention, referred to paras 17, 18 & 28 of the writ petition.

19. The petitioners, while disputing the stand of respondent No. 5, have made the following averments in paras 17, 18 & 28 of the writ petition:

> "17. That, however, during the period, in which Mahant Swami Brahma Hariji, who had resigned and who on acceptance of his resignation, on the request of the Board of Trustees was continuing until formal handing over was done, one Mahant Mohan Das started calling and styling himself as Mahant of Cheten Dev Kutia and secretly got his name recorded / mutated in the records of respondent no.4, in collusion with respondent ;no.4 and the petitioner could know these activities of respondent no.5 much later. It is stated that the petitioner could know the records of the respondent no.4 that the respondent no.4 claimed that Swami Brahma Hariji on account of his ill health had resigned from the post of the Mahant of the Chetan Dev Kutia which is the Math of the Udasin Sect and in the vacancy, which occurred consequently to the resignation of Swami Brahma Hariji, on 05.04.1996, Sat-Panch Parmeshwar Shri Panchayati Akhara Bara Udasin Nirvan and the mahamandeshwar, Mahants and Sadhus of the Udasin VAnsh and other Mahamandeshwar Mahant & Sandhu Samaj of Panchpuri and other respective citizens of the town seated Mahant Mohan DAs on the post of Mahant of the Chetan Das Kutia. It is specifically stated here that board of trustee of the Ashram never appointed Mahant Mohan Das as Mahant of the Ashram i.e. Chetan Dev Kutia."
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> 18. That after usurping the office of Mahant of the Ashram / Chetan Dev Kutia, describing the same as a Math of the Udasin Sect, the said Mahant Mohan Dasji/ respondent no.5 started to make claim for mutation of his name as owner in possession of the Ashram property on the pretext of having become Mahant of the Ashram after Mahant Swami Brahma Hariji and move an application dated 22.04.1996 for recording of his name in place of the name of Mahant Swami Brahma Hari I as owner of the trust property. A copy of the application dated 22.04.1996 of respondent no.5 is filed and marked as annexure 15 of this writ petition. It is stated that this was the time around which Swami Brahm Hari who had already relinquished the office of Mahant of the Chetan

Dev Kutia, in collusion with respondent no.5 prepared a document styling it as his will dated 23.06.1994 and by means of this will, Swami Brahm Hari without any legal authority under the will of Maharaj Chatendev Abdhoot Ji, Chela of Baba Haridas or under the Memorandum of Association and rules of the Maharaj Chetan Dev Avadhoot Ji Ashram Truest Association and claiming himself as Mahant and owner of Chetan Dev Kutia, Kankhal appointed Mahant Mohan Dass as Mahant of Chetan Dev Kutia. It is further stated that on the basis of this will dated 23.06.1994 and on the basis of an illegal No-Objection letter dated 14.08.1996 under the signature of Swami Brahm Hari as submitted to Nagar Palika, Haridwar, respondent no.5 sought mutation of his name as owner and Mahant of Chetan Dev Kutia.

28. That it is submitted that Mahant Mohas Das had set up a false case that Maharaj Chatendev Abdhoot Ji Ashram i.e. Chetan Dev Kutia is the Udasin Sect and being a Math of the Udasin Sect, a hermit of Udasin Sect being a Chela of any of the hermits of the Udasin Sect can be appointed Mahant and, therefore, on the vacancy, which had arisen due to the resignation of the then Mahant, namely, hamant Swami Brahma Hariji, he was appointed and he adorned the seat of the Maharaj Chetan Dev Avadhut Ji Ashram by the Sat Panch Parmeshwar Panchayati Adkhara Bada Udasin and mahamandeshwar Mahants and Sadhus of the Udasin Vansh. It is relevant to state that the office of Mahant can not be acquired by succession or inheritance and through any will and only the trustees are empowered to appoint 'Mahant'. Here, it may be relevant to point out that Maharaj Chetan Dev Avadhoot Ji, Chela Baba Hari Das of the Udasin Sect had through his perseverance had bought the property having 4 bigha and 12 biswa and built the house thereon and with an intent to create a Trust, so that after his death no Sadhu of any sect could claim any interest in the property and that the property would throughout be used as a place of rest and abode for sadhus and deserving mahants and for good purposes, hence departed form the cult of the Udasin by having no Chela, so that any Chela may not claim any interest in the property, created a Trust through his last will and testament for the up-keep and management of he property, which he had created for the purposes, which he thought to achieve from the property i.e. the property may be used as a place of rest and abode for the sadhus and deserving mahants and other good persons without any rent."

20. The above-quoted averments in paras 17, 18 & 28 of the writ petition reveal that respondent No. 5 Mahant Mohan Dass was

claiming himself to be the Mahant of the Ashram on the strength of a Will executed by the then Mahant Swami Brahm Hari. In support of his claim, respondent No. 5 Mahant Mohan Dass submitted No Objection Certificate dated 14.08.1996 bearing the signature of Swami Brahm Hari in the proceedings before Nagar Palika, Haridwar. Respondent No. 5 Mahant Mohan Dass sought mutation of his name in the municipal records in regard to the property in question. It has been pleaded by the petitioners in their writ petition that, according to the petitioners, the Ashram has a right to appoint a Mahant to look after the day-to-day work of the Ashram, whereas respondent No. 5 is claiming that he has been appointed as Mahant by Udasin Sect and Panch Parmeshwar. It is also apparent from the petitioners' pleading that the application of respondent No. 5 Mahant Mohan Dass was allowed by Nagar Palika, Haridwar and his name was mutated in the municipal records. The said order passed by Nagar Palika, Haridwar was challenged by the petitioners by filing an appeal under Section 160 of the Municipalities Act before Chief Judicial Magistrate, Haridwar and the dismissal of this appeal was the subject-matter of the writ petition before the High Court. It is also apparent that there is dispute as to whether respondent No. 5 was appointed Mahant of the Ashram or not.

21. Thus, it is apparent that the writ petition involves serious disputed questions of fact, which cannot be decided by the High Court in a writ petition filed under Article 226 and 227 of the Constitution of India, as the parties would be required to lead evidence in support of their claim, which course is not permissible in the proceedings under Article 226 & 227 of the Constitution of India. In our opinion, respondent No.4 Nagar Palika, Haridwar is the most appropriate and competent authority to decide the above factual disputes and, more so, when the proceedings, in that behalf, are already pending before Nagar Palika, Haridwar.

22. The Apex Court, in the case of **P.R. Murlidharan Vs Swami Dharmananda Theertha Padar** reported in **2006(4) SCC 501,** while sounding a note of caution to the High Courts, observed in paras 12 & 17:

> "12. It is one thing to say that in a given case a person may be held to be entitled to police protection, having regard to the threat perception, but it is another thing to say that he is entitled thereto for holding an office and discharging certain functions when his right to do so is open to question. A person could not approach the High Court for the purpose of determining such disputed questions of fact which were beyond the scope and purport of the jurisdiction of the High Court while exercising writ jurisdiction as it also involved determination of disputed questions of fact. Respondent 1 who sought to claim a status was required to establish the same in a court of law in an appropriate proceeding. He for one reason or the other, failed to do so. The provisions of Order 9 Rule 9 of the Code of Civil Procedure stare on his face. He, therefore, could not have filed a writ petition for getting the selfsame issues determined in his favour which he could not do even by filing a suit. Indeed the jurisdiction of the writ court is wide while granting relief to a citizen of India so as to protect his life and liberty as adumbrated under Article 21 of the Constitution, but while doing so it could not collaterally go into that question, determination whereof would undoubtedly be beyond its domain. What was necessary for determination of the question arising in the writ petition was not the interpretation of the documents alone, but it required adduction of oral evidence as well. Such evidence was necessary for the purpose of explaining the true nature of the deed of trust, as also the practice followed by this trust. In any event, the impleading applicant herein, as noticed hereinbefore, has raised a contention that he alone was ordained to hold the said office as per the bye-laws of the trust. The qualification of the first respondent to hold the office was also in question. In this view of the matter, we are of the opinion that such disputed questions could not have been gone into by the High Court in a writ proceeding.
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> 17. A writ petition under the guise of seeking a writ of mandamus directing the police authorities to give protection to a writ petitioner cannot be made a forum for adjudicating on civil rights. It is one thing to approach the High Court, for issuance of such a writ on a plea that a particular party has not obeyed a decree or an order of

> injunction passed in favour of the writ petitioner, was deliberately flouting that decree or order and in spite of the petitioner applying for it, or that the police authorities are not giving him the needed protection in terms of the decree or order passed by a court with jurisdiction, But, it is quite another thing to seek a writ of mandamus directing protection in respect of property, status or right which remains to be adjudicated upon and when such an adjudication can only be got done in a properly instituted civil suit. It would be an abuse of process for a writ petitioner to approach the High Court under Article 226 of the Constitution seeking a writ of mandamus directing the police authorities to protect his claimed possession of a property without first establishing his possession in an appropriate civil court. The temptation to grant relief in cases of this nature should be resisted by the High Court. The wide jurisdiction under Article 226 of the Constitution would remain effective and meaningful only when it is exercised prudently and in appropriate situations."

23. In the case of **S. S. Rana Vs. Registrar, Co-operative Societies & another** reported in **2006 AIR SCW 3723,** the Apex Court observed in para 14:

> "14. As the respondent no.1 does not satisfy any of the tests laid down in Pradeep Kumar Biswas (supra), we are of the opinion that the High Court cannot be said to have committed any error in arriving at a finding that the respondent-Bank is not a State within the meaning of Article 12 of the Constitution of India."

24. In the case in hand, the petitioners appear to have impleaded State of Uttarakhand; District Magistrate, Haridwar; and Sub-Divisional Magistrate, Haridwar as respondents Nos. 1, 2 & 3 in the writ petition to create an impression that the petitioners are claiming reliefs against the State and its officials, whereas, in fact, the entire dispute is between the petitioners and respondent No. 5 Mahant Mohan Dass, who are private parties and the State has no role to play in the dispute between them. Incidentally, it may also be mentioned here that the petitioners have a right to filing statutory appeal under Section 160 of the Municipalities Act against the order to be passed by respondent No. 4 Nagar Palika, Haridwar.

25. The writ petition, therefore, is liable to be dismissed on the ground that it involves serious disputed questions of fact, which cannot be resolved by the High Court in exercise of its jurisdiction under Article 226 and 227 of the Constitution of India.

26. Mr. Rajendra Dobhal, the learned counsel for respondent No. 5 further submitted that the petitioners' prayer for issuance of a writ of quo-warranto is misconceived, as the office of Mahant is not a 'public office'.

27. Mr. R.K. Raizada, the learned counsel for the petitioners, on the other hand, contended that in the case of a public trust, the office held by a Mahant is a 'public office'.

28. We need not dilate much on this issue, as the above interpretation of the term 'public office' by Mr. R.K. Raizada, the learned counsel for the petitioners deserves as outright rejection. Thus, we have no hesitation in holding that the petitioners' prayer for issuance of a writ of quo-warranto, in the facts and circumstances of the present case, is a misconceived one.

29. So far as the other reliefs sought by the petitioners in the writ petition are concerned, the petitioners' remedy lies before the appropriate statutory authorities and the civil courts.

30. The inevitable fall out of the foregoing discussion is that the writ petition filed by the petitioners under Section 7 of The Charitable and Religious Trusts Act, 1920 read with Article 226 and 227 of the Constitution of India is liable to be dismissed. The writ petition, therefore, is dismissed.

31. Consequently, the interim order dated 06.04.2007 stands vacated automatically.

32. With the above order, CLMA No. 932 of 2007 also stands disposed of.

(J.C.S. Rawat, J.) **(Rajeev Gupta, C.J.)**
04.05.2007 04.05.2007

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